

**NURSING HOME ADMINISTRATORS EXAMINING BOARD
MINUTES
MADISON, WISCONSIN
FEBRUARY 17, 2000**

PRESENT: Karen Robinson, Jerry Schallock, Tony Oberbrunner, Roxann Miller Sobek; Patricia Schulz and Robert Mulder (by telephone conference)

ABSENT: David Egan, Omar Barberena

STAFF PRESENT: Cletus Hansen, Becky Fry; Ruby Jefferson-Moore, Legal Counsel, Jim Polewski and other department staff were present for portions of the meeting

CALL TO ORDER

The meeting was called to order at 9:36 a.m. by Karen Robinson, Chair. A quorum of five voting members was present.

AGENDA

Clete Hansen indicated the following additions to the agenda: comments from Jim Polewski regarding the memorandum of agreement between the Department of Health and Family Services (DHFS) and the Department of Regulation and Licensing (DRL), dated February 16, 2000, and the minutes from the February 10, 2000, Provisional Licensing Committee meeting.

MOTION: Jerry Schallock moved, seconded by Roxann Miller Sobek, to adopt the agenda as amended. Motion carried unanimously.

MINUTES (12/16/99)

MOTION: Jerry Schallock moved, seconded by Roxann Miller Sobek, to approve the minutes, as written. Motion carried unanimously.

ADMINISTRATIVE REPORT

Secretary Cummings' Report

Clete Hansen informed the Board that Secretary Cummings was in California and unavailable to address the Board.

Bureau Director's Report

Board members received a copy of revised NHA rules, an addendum to draft case summary 99 NHA 012, and Attorney General James Doyle's letter of opinion dated February 2, 2000, relating to the disclosure of social security numbers. Noted.

- **Board Roster**

Clete Hansen informed the Board that an updated roster was included in their folders.

- **Meeting Dates**

The Board members received an updated list of 2000 meeting dates. Karen Robinson requested that the April 20, 2000 meeting and screening session be cancelled and moved up to March 9, 2000.

- **To-Pass Folder**

Information was circulated in the To-Pass Folder and duly noted.

- **NHA New Fees**

Information on the new fees for NHA was included in the agenda packet. Noted.

- **Credential Holder Query**

Clete Hansen informed the Board that individuals could now access the department's web site to gain access to the department's credential data base and verify whether an individual holds a current license in any of the professions regulated by the department and any of its Boards.

LEGISLATIVE UPDATE

SB299 and AB 607, Requirements that Apply to a Person Taking the Examination for a Nursing Home Administrator License

Karen Robinson informed the Board that she testified before the Senate Committee and that the bill passed the Senate Committee 7 to 0.

Clete Hansen referred to Scott Stegall's January 26, 2000, letter to the Committee on Health, Utilities, Veterans and Military Affairs, regarding SB 299. Noted.

Update on Wisconsin Caregiver Legislation

Clete Hansen informed the Board that the kinds of crimes that prevent a person from working in nursing home facilities were reduced with this legislation.

ADMINISTRATIVE RULES UPDATE

Rules Relating to Experience and Reciprocity

Ruby Jefferson-Moore indicated that a copy of the new rules was included in the packet. She indicated that the NHA codebook was dated July 1998 and the new rules would be included in the next revised codebook.

No further discussion.

Revision of Chapter HFS 132

Karen Robinson indicated that she was at the Bureau of Quality Assurance (BQA) meeting last week and was informed that the soonest the rules would be promulgated would be April, 2001. She requested that a letter be sent to BQA asking them to notify the Board when they are getting close to a final draft of the rules in order for the Board to review exam questions.

Patricia Schulz indicated that she had reviewed the revision of Chapter HFS 132. She was concerned with the change from 120 days to 60 days to secure a replacement licensed administrator. She suggested that it be left at 120 days and that a provision be added to require consultation of a licensed nursing home administrator after the first 60 days.

Jim Polewski questioned the definition of a qualified person referred to in HFS 132.07(2)(b)(2)(a).

The Board discussed the definition of a qualified person and the minimum standards for an acting nursing home administrator.

Jim Polewski suggested that the Board rules be as congruent as possible with the HFS rules in relation to the minimum standards for a nursing home administrator. He suggested that the definition of a qualified person to serve as an acting administrator during an interim period is a person who has obtained substantially all requirements to get a license as a nursing home administrator.

Jim Polewski questioned what the minimal qualifications are that HFS would enforce. He indicated that this should be ironed out in the administrative rules rather than the statutes.

A Board member suggested that the word qualified be changed to “competent” relating to appointing a person to serve as administrator during an interim period.

Karen Robinson suggested that the comments of the Board regarding HFS 132 should state that a person acting as an administrator during an interim period be “competent to function as an administrator,” and that there be a requirement that the person acting as an administrator during the interim period receive consultation from a licensed nursing home administrator for a quantifiable time.

The Board discussed the liability of a consulting licensed administrator.

Jim Polewski gave his opinion on the liability and responsibility of a consulting nursing home administrator.

EXAMINATION ISSUES

Impact of Revision of Chapter HFS 132 on NAB Exams

Darwin Tichenor indicated that the proposed HFS 132 does include significant changes and examination questions will need to be revised. He informed the Board that the computerized exam is delayed at this point and also that there are 22 people certified to take the exam.

BOARD MEMBER ACTIVITY

Karen Robinson informed the Board that 8% of the nursing homes in Wisconsin have filed Chapter 11.

REPORT OF THE PROVISIONAL LICENSING COMMITTEE

The Board received a copy of the minutes from the February 10, 2000, Provisional Licensing Committee.

Jerry Schallock reported on the meeting of the Committee. The Committee recommended that three options should be considered in addressing the provisional licensing issue:

1. Request that HGS further amend its rule proposal.
2. Include some additional provisions relating to this issue, in the Memorandum of Agreement.
3. Prepare a proposal for revising Chapter 456, Stats., by including requirements and criteria for a provisional license. The Board could also consider #1 and #2 while the statutory proposal is pending.

The Board discussed the reason for pursuing the provisional license issue. The Board commented on the number of cases closed for no jurisdiction due to acting administrators.

Karen Robinson referred to Jim Polewski’s comment regarding why we have licenses at all if you can practice for a year without one and she questioned how the Board can prosecute anyone if the standard is not there?

Jim Polewski addressed his concern about the qualifications of a person appointed by the nursing home governing body and the possibility of that person's license having been revoked in another state. He would like to see the rule say "qualified by education, training, and experience to a specific degree." He was concerned about having to prove what the standard is at a hearing.

Ruby Jefferson-Moore pointed out examples of provisional or temporary licensing requirements from various states.

Robert Mulder commented on Minnesota's requirements that an acting administrator can work for a maximum of six months.

Karen Robinson reviewed the 3 recommendations made by the Provisional Licensing Committee.

Karen suggested the possibility that a separate agreement would need to be established to deal with the acting administrator issue and the extension of that permission.

MOTION: Jerry Schallock moved, seconded by Patricia Schulz, to contact HFS and ask representatives to attend the next Board meeting to discuss creating a new Memorandum of Agreement between DHFS and NHA relating to acting administrators and that the Board continue to explore the issue of provisional licensing and the revision of Chapter 456, Stats. Motion withdrawn following discussion.

Anthony Oberbrunner requested that the Board consider separating the above motion into two motions and that the issue of revisions to Chapter 456 be discussed further.

MOTION: Jerry Schallock moved, seconded by Patricia Schulz, to contact HFS and ask representatives to attend the March 9, 2000 NHA Board meeting to discuss the creation of a new Memorandum of Agreement between DHFS and NHA relating to acting administrators. Motion carried unanimously.

MOTION: Jerry Schallock moved, seconded by Roxann Miller Sobek, that the Board continue to explore the issue of provisional licensing and the possible revisions to Chapter 456, Stats. Motion carried unanimously.

Anthony Oberbrunner spoke against the motion in regards to the unlicensed administrators and the number of cases being closed for no jurisdiction. He indicated that there would be a lot of administrative cost to address one situation that occurred in two years.

Patricia Schulz recommended that Board members keep the information from various states relating to provisional licensing to refrain from reprinting for future agenda packets.

Karen Robinson recommended that BQA representatives bring with them the names of current acting administrators in Wisconsin.

MOTION: Patricia Schulz moved, seconded by Roxann Miller Sobek, to authorize Clete Hansen to draft a letter to DHFS, on behalf of the Board, to be reviewed by Karen Robinson, indicating the Board's comments relating to HFS 132, changing 60 calendar days to secure a replacement licensed administrator to 120 days, to change the word "qualified" to "competent", and to require the consultation of a licensed nursing home administrator to the acting administrator during the interim period. Motion carried unanimously.

The Provisional Licensing Committee will meet sometime after the March 9, 2000 NHA meeting.

MEMO OF AGREEMENT BETWEEN DHFS AND DRL, REGARDING SUBSTANDARD QUALITY OF CARE

Karen Robinson questioned whether the BQA representatives who will be invited to attend the next NHA meeting are the same individuals who refer sub-standard cases to the Board.

Anthony Oberbrunner suggested that the letter be addressed to Susan Schroeder, Director of BQA.

Karen Robinson requested that Jim Polewski and Ruby Jefferson-Moore draft a new memorandum of agreement between DHFS and DRL to include the points of discussion.

Ruby Jefferson-Moore suggested that the memo be drafted by the Department's General Counsel, Bill Dusso.

ADMINISTRATIVE WARNINGS

Clete Hansen indicated that the administrative warning is an on-going discussion item of the Department's Administrative Staff and reminded the Board to keep considering the use of administrative warnings for certain cases to indicate that the Board did something, rather than just close the case; and he indicated that the memo included in the packet is being revised and will be brought back to the Board at a future meeting.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Noted.

NEW BUSINESS

None.

RECESS TO CLOSED SESSION

MOTION: Patricia Schulz moved, seconded by Jerry Schallock, to convene the meeting in Closed Session pursuant to sections 19.85(1)(a), (b),(f) and (g), Wis. Stats.: to consider the licensing or discipline of a person licensed by this Board or the investigation of charges against such a person. Specifically, to discuss monitoring reports, case status reports, case closings, stipulations, deliberations on stipulations that may be signed after printing of the agenda, deliberations on proposed disciplinary matters that may be signed after printing of the agenda, pending applications, examination issues, and disciplinary proceedings. Motion carried by a roll call vote: Patricia Schulz-yes; Jerry Schallock-yes; Robert Mulder-yes; Roxann Miller Sobek-yes; Karen Robinson-yes. Motion carried unanimously.

Open Session recessed at 11:26 a.m.

The Board received a copy of the Case Status Report.

The Board deliberated on issues related to case closings and pending applications.

RECONVENE IN OPEN SESSION

MOTION: Patricia Schulz moved, seconded by Jerry Schallock, to reconvene in Open Session at 11:46 a.m. Motion carried unanimously.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

CASE CLOSINGS

MOTION: Karen Robinson moved, seconded by Robert Mulder, to close 98 NHA 027, Dennis Ferger, for no violation. Motion carried unanimously.

MOTION: Roxann Miller Sobek moved, seconded by Patricia Schulz, to close 99 NHA 012, Richard Scollon, for no violation. Motion carried unanimously.

MOTION: Karen Robinson moved, seconded by Roxann Miller Sobek, to close 99 NHA 008, Frieda J. Pulkowski, for no violation. Motion carried with Patricia Schulz abstaining.

PENDING APPLICATIONS

MOTION: Patricia Schulz moved, seconded by Robert Mulder, to approve Stephen L. Johnson to sit for the exam. Motion carried unanimously.

MOTION: Karen Robinson moved, seconded by Patricia Schulz, to grant licensure to Stephen L. Johnson upon passing the examination and filing the credential application. Motion carried unanimously.

MOTION: Karen Robinson moved, seconded by Patricia Schulz, to deny the application for reciprocity for William J. Buchanan, as he does not hold a current Minnesota license. Motion carried unanimously.

OTHER ITEMS AS AUTHORIZED BY LAW

None

ADJOURNMENT

By consensus the meeting was adjourned at 11:51 a.m.

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